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**OFFICE OF PETITIONS**

In re Application of  
Kenneth Jacobs, et al.  
Application No. 09/729,674  
Filed: December 4, 2000  
Attorney Docket No. 1290.1018-008

ON PETITION

This is a decision on the petition, filed October 10, 2003, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed August 14, 2002, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed April 9, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the 3-month extension of time submitted with the petition on October 10, 2003, was subsequent to the maximum extendable period for reply, the \$940.00 extension fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center 1653 for consideration of the amendment filed October 10, 2003.

Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy